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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 KEVIN VOLKMANN,¹

9 Plaintiff,

10 v.

11 SOLID GROUND WASHINGTON, *et al.*,

12 Defendant.
13

NO. C18-1114RSL

ORDER DENYING MOTION FOR
RECUSAL

14 This matter comes before the Court on plaintiff's "Motion to Recuse the Judge" in the
15 above-captioned matter. Dkt. # 9. Section 455 of title 28 of the United States Code governs the
16 disqualification of a district judge. It states in relevant part: "Any justice, judge, or magistrate
17 judge of the United States shall disqualify himself in any proceeding in which his impartiality
18 might reasonably be questioned." Additionally, 28 U.S.C. § 144, pertaining to judicial bias or
19 prejudice, provides:
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21 Whenever a party to any proceeding in a district court makes and files a timely and
22 sufficient affidavit that the judge before whom the matter is pending has a personal
23 bias or prejudice either against him or in favor of any adverse party, such judge
24 shall proceed no further therein, but another judge shall be assigned to hear such
25 proceeding. The affidavit shall state the facts and the reasons for the belief that
26 bias or prejudice exists.

27 ¹ Plaintiff filed his complaint in C18-1114RSL on his own behalf and on behalf of unnamed Doe
28 residents of the apartment complex. Plaintiff is not a lawyer licensed to practice before the bar of this
Court, however, and may not represent anyone but himself.

1 A judge must recuse himself if a reasonable person would believe that he is unable to be
2 impartial. Yagman v. Republic Insurance, 987 F.2d 622, 626 (9th Cir. 1993). A litigant cannot,
3 however, use the recusal process to remove a judge based on adverse rulings in the pending case:
4 the alleged bias must result from an extrajudicial source. United States v. Studley, 783 F.2d 934,
5 939 (9th Cir. 1986).

6 Plaintiff posits that the undersigned (a) “may be biased against the German ethnicity and
7 Christian religion of the plaintiff,” (b) “may also have a bias against the manner of presentation
8 of the plaintiff” because of a disability (c) has a presumed allegiance to former President
9 William J. Clinton (who plaintiff asserts is in some way connected to the wrongs of which Solid
10 Ground Washington is accused), and (d) may be under the influence of Solid Ground
11 Washington “as a syndicated crime organization.” A litigant’s unsupported speculation that a
12 judicial officer may dislike a group to which he or she belongs is not evidence of bias on the
13 officer’s part. Nor are remote - or entirely fanciful - connections between a judicial officer and a
14 public figure or party enough to trigger recusal under 28 U.S.C. § 455. None of the
15 circumstances provided in § 455(b) apply, and an objective observer who is informed of all the
16 surrounding facts and circumstances would not reasonably question the impartiality of federal
17 judges simply because they go through a constitutionally required advice and consent process.
18 See 28 U.S.C. § 455(a); Microsoft Corp. v. United States, 530 U.S. 1301, 1302 (2000). Judicial
19 impartiality is presumed (First Interstate Bank of Ariz., N.A. v. Murphy, Weir & Butler, 210
20 F.3d 983, 987 (9th Cir. 2000)), and judges are required to hear matters over which they have
21 jurisdiction when there is no legitimate reason to recuse (Clemens v. U.S. Dist. Court, 428 F.3d
22 1175, 1179 (9th Cir. 2005)). Reasonable observers of the federal judiciary understand that judges
23 have many contacts in the legal and political community and are often called upon to put
24 personal relationships aside in favor of resolving disputes on the facts and the law presented.
25 See, e.g., U.S. v. Mosesian, 1992 WL 197408 at *5 (9th Cir. Aug. 18, 1992); Matter of Mason,
26 916 F.2d 384, 387 (7th Cir. 1990). In this instance, there is only the barest connection between
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1 the undersigned and former President Clinton, and no connection at all with Solid Ground
2 Washington. Plaintiff's speculation does not provide the missing evidence of bias.

3 Plaintiff's other allegations of bias involve the undersigned's decisions in this and another
4 case filed on the same day. Plaintiff asserts that the Court was "dismissive, at times cavalier"
5 when reviewing his complaint in this case and, in a recent decision in State of Wash. v. U.S.
6 Dep't of State, C18-1115RSL, showed hostility to the First Amendment rights plaintiff seeks to
7 vindicate here. As noted above, plaintiff may not use the recusal process to remove a judge
8 based on adverse rulings in the pending case: the alleged bias must result from an extrajudicial
9 source. To the extent a litigant disagrees with the undersigned's decisions, such issues are
10 properly raised through an appeal to the Ninth Circuit, not a motion to recuse. Mere error is not
11 evidence of bias, and plaintiff has not shown the type of extraordinary error or illogic that might
12 give rise to an inference that the decisions were motivated by anything other than the relevant
13 facts and applicable law. Where, as in this case, the only evidence of bias presented is the
14 judge's substantive and procedural decisions, the risk that the litigant is using the recusal motion
15 for strategic purposes is considerable. See Ex Parte Am. Steel Barrel Co. and Seaman, 230 U.S.
16 35, 44 (1913).

17 Plaintiff has not provided any evidence of bias or prejudice and has not shown that the
18 undersigned's impartiality could reasonably be questioned. The motion to recuse is therefore
19 DENIED. Pursuant to Local General Rule 8(c), the recusal request is hereby referred to the
20 Honorable Ricardo S. Martinez for review.
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22 Dated this 4th day of September, 2018.

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24 Robert S. Lasnik
25 United States District Judge
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